**Section 2520.490 EEOC Dual Filed Charges**

a) The following will apply to all charges filed after August 26, 2011 with the Equal Employment Opportunity Commission (EEOC) and dual filed with the Department pursuant to Section 7A-102(A-1) of the Act:

1) The charge will be initially investigated by the EEOC pursuant to the EEOC's rules and procedures.

2) The Department will not take any action on the charge until the EEOC issues its final determination.

3) Within 30 days after receiving the final determination from the EEOC, the complainant must submit a copy of the EEOC's determination to the Department in order to preserve the complainant's rights under the Act.

b) The Department will investigate a charge filed with the EEOC and dual filed with the Department pursuant to Section 7A-102(A) and (B) through (G) of the Act if:

1) The EEOC dismisses the charge or a portion of the charge of discrimination because, under federal law, the EEOC lacks jurisdiction over the charge and the Department has jurisdiction over the charge; or

2) The EEOC defers the case to the Department for investigation pursuant to the Department's work sharing agreement with the EEOC.

c) After receiving notice from the EEOC that a charge has been filed pursuant to Section 7A-102(A-1) of the Act, the Department will notify the parties that:

1) A charge has been received by the EEOC and has been sent to the Department for dual filing purposes;

2) The EEOC is the governmental agency responsible for investigating the charge and the investigation shall be conducted pursuant to the rules and procedures adopted by the EEOC;

3) The Department will take no action on the charge until the EEOC issues its final determination;

4) The complainant must submit a copy of the EEOC's final determination within 30 days after service of the final determination by the EEOC on the complainant in order to preserve the complainant's rights under the Act; and

5) The time period to investigate the charge contained in Section 7A-102(G) is tolled from the date on which the charge is filed with the EEOC until the EEOC issues its final determination.

d) If the complainant fails to submit a copy of the EEOC's final determination to the Department within 30 days after receipt of the EEOC's final determination, the Department may dismiss the charge for lack of jurisdiction. The complainant may request to have the Illinois Human Rights Commission review the Department's determination that it lacks jurisdiction over the charge by filing a Request for Review with the Illinois Human Rights Commission within 90 days after receipt of the Department's Notice of Dismissal in accordance with Section 8-103 of the Act.

e) If the Department does not receive notification from the EEOC that a charge has been filed until after the EEOC has already issued its final determination, the complainant shall have 30 days from receipt of the Department's notice to submit a copy of the EEOC's final determination to the Department.

f) If the EEOC finds reasonable cause for a violation, the EEOC's final determination is the issuance of a Notice of Right to Sue after conciliation has failed. The EEOC's finding of cause is not a final determination and the Department will not take any action until the EEOC's conciliation process is complete, which occurs when the EEOC either files its complaint or when it issues to the complainant a Notice of Right to Sue after conciliation has failed. The complainant has 30 days from receipt to submit a copy of the EEOC's Notice of Right to Sue to the Department.

g) If the complainant first files a charge with the EEOC and then files a charge containing the same or similar allegations with the Department, the Department may administratively close the charge filed with the Department as a duplicate charge. The Department shall process the EEOC-filed charge pursuant to Section 7A-102(A-1) of the Act.

h) If the complainant first files a charge with the Department and then files a charge containing the same or similar allegations with the EEOC, and the EEOC charge is dual filed with the Department pursuant to Section 7A-102(A-1) of the Act, the Department may administratively close the dual filed charge with the EEOC as a duplicate charge. The Department shall process the Department charge pursuant to Section 7A-102(B) through (G).

i) If the complainant timely notifies the Department of the EEOC's determination and concurrently requests that the Department review the EEOC's determination, the Department will serve a copy of the charge on the respondent and review the EEOC's determination pursuant to Section 7A-102(A-1)(3)(b) without further notice to the parties.

j) If the complainant timely notifies the Department of the EEOC determination that it is unable to establish that unlawful discrimination has occured and concurrently submits a written request for the Department to adopt the EEOC's determination, the Department may adopt the EEOC's determination as a dismissal for lack of substantial evidence pursuant to Section 7A-102(A-1)(3)(a) of the Act without further notice to the parties.

k) The Department will adopt the EEOC's determination after the complainant has requested the Department review the EEOC's determination if the complainant notifies the Department in writing, and within a reasonable period of time after requesting the Department to review the EEOC determination, that the complainant desires to withdraw the previous request and have the Department adopt the EEOC's finding.

l) As part of any further investigation pursuant to Section 7A-102(A-1)(3)(b) of the Act, the Department will not require:

1) The respondent to file a verified response to Complainant's charge pursuant to Section 7A-102(B) of the Act or Section 2520.405 of this Part; or

2) The parties to attend a fact finding conference pursuant to Section 7A-102(C)(4) of the Act or Section 2520.440 of this Part.

m) The 365-day time period to investigate the charge pursuant to Section 7A-102(G) of the Act shall be tolled from the date the charge is filed with the EEOC until the date the EEOC issues its final determination. The Department will consider the EEOC final determination issued on the date set forth in the EEOC's final determination.

n) Complainants may withdraw the charge with the Department prior to the EEOC issuing a final determination by submitting a withdrawal form identifying the parties' names and the Department's control number. Upon receiving a properly submitted withdrawal form, the Department shall administratively close the charge pursuant to Section 2520.550.

(Source: Added at 38 Ill. Reg. 9481, effective April 21, 2014)